S.B. Civil Writ Petition No.6334/07
Krishna Murari Vs. The Addl. District Judge & Ors.

22.08.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Amit Jindal for petitioner.

Heard learned counsel for the petitioner.

The petitioner who is plaintiff in the suit has challenged the order dated 1.6.2007 whereby his application for sending partition deed for examination of signature of Chanda Lal by expert was rejected.

The learned counsel for the petitioner argued that the learned trial court erred in law in rejecting the application of the petitioner on the premise that their already exist a report

of the expert Shri Anil Kumar Khutetia on partition deed and it was argued that that report was obtained in a suit in which the petitioner was not a party and further that the comparison of signature of Chanda Lal on the partition deed in that case was made in the signature on Vakalatnama and map, it cannot be considered as admitted documents. When asked whether any of the parties has disputed the correctness of the signature of Chanda Lal on Vakalatnama and map, the learned counsel could not point out any such dispute raised by any other party. He sought to rely on the expert report annexed at Annexure-4 with the present writ petition and submitted that aforesaid has been procured on th basis of comparison of admitted signatures of

Chanda on the statement given in the Court in Case No.21/2004.

Having heard the learned counsel for the petitioner and perused the material on record, I find that the learned trial court has given cogent reasons for not accepting the prayers of the petitioners because already an expert report was called under the order of the Court with regard to various documents and partition deed. In fact the learned Court has observed that the aforesaid report was called on the application of the petitioner and therefore he can obtain certified copy thereof and produce in this case too.

In the facts of the case, I do not find that the learned trial court has committed any error of law in rejecting

the application of the petitioner. Even otherwise comparison of signatures can be made by the Court with the aid of Section 73 of the Evidence Act and petitioner can produce other evidence as well.

With the aforesaid observations, the writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-